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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/535,034      | 12/16/2005  | Masahiro Endo        | DI-5966             | 3565             |

29200 7590 06/05/2007  
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| EXAMINER |
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WITCZAK, CATHERINE

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| ART UNIT | PAPER NUMBER |
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3767

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| MAIL DATE | DELIVERY MODE |
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06/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                  |                             |  |
|------------------------------|----------------------------------|-----------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/535,034    | Applicant(s)<br>ENDO ET AL. |  |
|                              | Examiner<br>Catherine N. Witczak | Art Unit<br>3767            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-45 is/are pending in the application.
- 4a) Of the above claim(s) 31-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-30 and 45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*WMMW skmwt*

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3, 8, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maginot et al (US 6,190,371) as modified by Johnson et al (US 5,735,831).

Maginot discloses in Figure 3 and 4 a coiled catheter set comprising: a catheter (34) having first and second ends; an insert (2) defining a cavity and having an extraperitoneal end and an intraperitoneal end; a cuff (43) for promoting tissue ingrowth; a guide placed in the cavity (column 10, line 44 - column 11, line 34); and the extraperitoneal end including a portion having an increased diameter (74).

Maginot discloses the claimed invention except for the insert having a plurality of side apertures on the extraperitoneal end. Johnson et al teach in Figure 1 that it is known to use apertures on the proximal end of an insert located inside a catheter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the catheter of Maginot with an insert having a plurality of apertures on its proximal end as taught by Johnson et al, since such a modification would allow for more even fluid distribution within the catheter.

2. Claims 1, 2, 4, 5, 7, 9, 10, 13, 23, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mononen et al (US 5,106,376) as modified by Johnson et al (US 5,735,831).

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Mononen et al disclose in Figure 1 a catheter set comprising: a catheter (10) having first and second ends; an insert (20) defining a cavity and having an extraperitoneal end and an intraperitoneal end; a guide placed in the cavity (21) before the catheter and insert have been implanted in the patient; a syringe (40); a plug; a coiled end (105); and a flute like aperture (13) in the wall of the catheter.

Mononen et al disclose the claimed invention except for the insert having a plurality of side apertures on the extraperitoneal end. Johnson et al teach in Figure 1 that it is known to use apertures on the proximal end of an insert located inside a catheter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the catheter of Mononen et al with an insert having a plurality of apertures on its proximal end as well as one its distal end as taught by Johnson et al, since such a modification would allow for more even fluid distribution within the catheter.

3. Claims 1, 6, 16, 25, 27, 28, and 45 rejected under 35 U.S.C. 103(a) as being unpatentable over Schweich, Jr. et al (US 5,782,797) as modified by Johnson et al (US 5,735,831).

Schweich et al disclose in Figure 2 a catheter set comprising: a catheter (90), a polyurethane radio-opaque insert (50; column 4, lines 23-29) defining a cavity and having an extraperitoneal end and an intraperitoneal end which substantially fills the interior space of the catheter; and a guide (40) placed in the cavity of the insert; and apertures (10 and 15) on the walls of both the catheter and the insert

Schweich et al disclose the claimed invention except for the insert having a plurality of side apertures on the extraperitoneal end. Johnson et al teach in Figure 1 that it is known to use apertures on the proximal end of an insert located inside a catheter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the catheter of Schweich with an insert having a plurality of apertures on its proximal end as taught by Johnson et al, since such a modification would allow for more even fluid distribution within the catheter.

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*Response to Arguments*

Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

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